

**Introduced by Committee on Insurance (Senators Calderon (Chair),
Anderson, Corbett, Correa, Gaines, Lowenthal, Price, and
Wyland)**

February 18, 2011

An act to amend Section 1067.17 of, and to add Section 1067.19 to, the Insurance Code, and to repeal Section 16 of Chapter 334 of the Statutes of 2010, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 711, as introduced, Committee on Insurance. Insurance: California Life and Health Insurance Guarantee Association Act.

Existing law, the California Life and Health Insurance Guarantee Association Act, establishes an association of insurers to pay benefits and continue coverage pursuant to contractual obligations under life and health insurance policies and annuity contracts in the event of the impairment or insolvency of a member insurer that issued the policies or contracts. Existing uncoded law states that specified changes made to the act during the 2009–10 Regular Session of the Legislature do not apply to any member insurer that, before the effective date of those changes, has been placed under an order of liquidation with a finding of insolvency.

This bill would codify that provision.

The bill would make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1067.17 of the Insurance Code is amended to read:

1067.17. (a) No person, including an insurer, agent, or affiliate of an insurer shall make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in any newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio station or television station, or in any other way, any advertisement, announcement, or statement, written or oral, which uses the existence of the California Life and Health Insurance Guarantee Association for the purpose of sales, solicitation, or inducement to purchase any form of insurance covered by the California Life and Health Insurance Guarantee Association Act. Provided, however, that this section shall not apply to the California Life and Health Insurance Guarantee Association or any other entity ~~which~~ *that* does not sell or solicit insurance.

(b) (1) The association shall prepare a summary document describing the general purposes and current limitations of the article and complying with subdivision (c). This document shall be submitted to the commissioner for approval. Sixty days after receiving approval, no insurer may deliver a policy or contract described in paragraph (1) of subdivision (b) of Section 1067.02 to a policyholder or contractholder unless the document is delivered to the policy or contractholder prior to or at the time of delivery of the policy or contract ~~except if subdivision (d) applies~~. The document should also be available upon request by the policyholder. The distribution, delivery, or contents or interpretation of this document shall not mean that either the policy or the contract or the holder thereof would be covered in the event of the impairment or insolvency of a member insurer. The description document shall be revised by the association as amendments to the article may require. Failure to receive this document does not give the policyholder, contractholder, certificate holder, or insured any greater rights than those stated in this article. This paragraph shall remain operative only until paragraph (2) becomes operative.

(2) Within 180 days of the effective date of the act that amended this section in the 2009–10 Regular Session, the association shall prepare a summary document describing the general purposes and current limitations of the article and complying with subdivision (c). This document shall be submitted to the commissioner for approval. At the expiration of the 60th day after the date on which the commissioner approves the document, an insurer may not deliver a policy or contract described in paragraph (1) of subdivision (b) of Section 1067.02 to a policy or contract owner unless the summary document is delivered to the policy or contract owner at the time of delivery of the policy or contract. The document shall also be available upon request by a policy owner. The distribution, delivery, or contents or interpretation of this document does not guarantee that either the policy or the contract or the owner of the policy or contract is covered in the event of the impairment or insolvency of a member insurer. The description document shall be revised by the association, as amendments to the article may require. Failure to receive this document does not give the policy owner, contract owner, certificate holder, or insured any greater rights than those stated in this article.

(c) The document prepared under subdivision (b) shall contain a clear and conspicuous disclaimer on its face. The commissioner shall promulgate a rule establishing the form and content of the disclaimer. The disclaimer shall do all of the following:

(1) State the name and address of the life and health insurance guarantee association and insurance department.

(2) Prominently warn the policy owner or contract owner that the California Life and Health Insurance Guarantee Association may not cover the policy or, if coverage is available, it will be subject to substantial limitations and exclusions and conditioned on continued residence in the state.

(3) State that the insurer and its agents are prohibited by law from using the existence of the California Life and Health Insurance Guarantee Association for the purpose of sales, solicitation, or inducement to purchase any form of insurance.

(4) State that the policy owner or contract owner should not rely on coverage under the California Life and Health Insurance Guarantee Association when selecting an insurer.

(5) Provide other information as directed by the commissioner.

1 SEC. 2. Section 1067.19 is added to the Insurance Code, to
2 read:

3 1067.19. The amendments made to this article by Chapter 334
4 of the Statutes of 2010 during the 2009–10 Regular Session of the
5 Legislature shall not apply to any member insurer that, before the
6 effective date of those amendments, has been placed under an
7 order of liquidation with a finding of insolvency.

8 SEC. 3. Section 16 of Chapter 334 of the Statutes of 2010 is
9 repealed.

10 ~~SEC. 16. The amendments made to the California Life and~~
11 ~~Health Insurance Guarantee Association Act (Article 14.7~~
12 ~~(commencing with Section 1067) of Chapter 1 of Part 2 of Division~~
13 ~~1 of the Insurance Code) by this act during the 2009–10 Regular~~
14 ~~Session of the Legislature shall not apply to any member insurer~~
15 ~~that, before the effective date of this act, has been placed under an~~
16 ~~order of liquidation with a finding of insolvency.~~